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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,696	05/29/2001	Glenn G. Strawder		5731
7590 William D. Hall 10850 Stanmore Drive Potomac, MD 20854-1522			EXAMINER PORTER, RACHEL L	
			ART UNIT	PAPER NUMBER
			3626	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/27/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/865,696

Applicant(s)

STRAWDER, GLENN G.

Examiner

Rachel L. Porter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 11/29/06. Claims 1-27 have been cancelled. Claims 28-46 are pending. The IDS filed 11/29/06 has been entered and considered.

Claim Objections

2. The objection to claim 25 is hereby withdrawn due to the amendment filed 11/29/06.

Claim Rejections - 35 USC § 112

3. The rejection of claims 19-27 under 35 U.S.C. 112, second paragraph, is moot in view of the amendment filed 11/29/06.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 28-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorne (USPN 6,282,513) in view of Wenstrup et al (USPN 5,544,157).

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[claim 28] Dorne discloses an apparatus for monitoring the operations of an operator of a machine that performs a medical function, comprising:

- a computer having a memory, (Figure 1, ref. no. 100.)
 - o said memory including a standard protocol of operations that an operator should perform when using said machine to perform said medical function, (col. 6, lines 9-17, Fig. 3C)
- apparatus for receiving, and entering into said memory, the operations of the operator of said machine during the use of the machine to perform said medical function, (col. 6, lines 38-40; col. 11, lines 30-33)

Dorne further discloses an apparatus including at least one computer for analyzing data from a computer, (col. 6, line 67-col. 7, line 24—e.g. generate cpt codes). However, Dorne does not expressly disclose a computer including a program for comparing said standard protocol with said operations that were entered by said apparatus. Wenstrup discloses a system that uses a template and includes means to determine the differences and similarities between images (e.g. x-ray images) and to provide output regarding these similarities/differences. (i.e. a program for comparing said standard protocol with said operations that were entered by said apparatus) (col. 8, line 53-col. 9, line 30) At the time of the Applicant's invention it would have been obvious to one of ordinary skill in the art to modify the system of Dorne with the teaching of Wenstrup to include a feature that compares/corrects for differences between the images. As suggested by Wenstrup, one would have been motivated to include these

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features to provide standardization of computed radiography and to improve technicians' confidence in the images received and read. (col. 2, lines 40-49)

[claims 29-30] Dorne discloses an apparatus, in which said computer has an output which sets forth prices computed from the operations performed by said machine and in which said computer provides information on procedures performed by said machine. (i.e. determining how many of a particular examination have been performed and determining how much money a particular number of examinations produce) (col. 15, lines 60-col. 16, line 19)

[claims 31-32] Dorne and Wenstrup disclose the apparatus of claim 28, as explained in the rejection of claim 28, but do not expressly disclose that there are multiple computers. However, at the time of the applicant's invention it would have been obvious to one of ordinary skill in the art to modify the apparatus of Dorne and Wenstrup in combination to include a plurality of machines, each including a computer.

(Multiplication or duplication of parts for multiple effects is an obvious modification over the prior art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8, 11; 549 F.2d 833 (7th Cir. 1977); *In re Harza*, 124 USPQ 378, 380; 274 F.2d 669 (CCPA 1960)) One would have been motivated to include this feature to increase the efficiency of the system, by allowing more than one operator to work at one time.

[claim 33] Dorne discloses a method of monitoring the operations of an operator of a medical machine, which gathers medical information about a patient, comprising:

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- providing a computer with a memory, (Figure 1, ref. no. 100.)
- providing said memory with a standard protocol for operating said machine to perform a medical function, (col. 6, lines 9-17, Fig. 3C)
- entering into said memory the operations of said operator in operating said machine, (col. 6, lines 38-40; col. 11, lines 30-33)

Dorne further discloses the method as explained above, but Dorne does not expressly disclose providing comparisons by said computer which compare said standard protocol and said operations of said operator. Wenstrup discloses a system that uses a template and includes means to determine the differences and similarities between images (e.g. x-ray images) and to provide output regarding these similarities/differences. (i.e. providing comparisons by said computer which compare said standard protocol and said operations of said operator) (col. 8, line 53-col. 9, line 30) At the time of the Applicant's invention it would have been obvious to one of ordinary skill in the art to modify the system of Dorne with the teaching of Wenstrup to include a feature that compares/corrects for differences between the images. As suggested by Wenstrup, one would have been motivated to include these features to provide standardization of computed radiography and to improve technicians' confidence in the images received and read. (col. 2, lines 40-49)

[claim 34] Dorne teaches a method, in which said computer computes prices useful for billing purposes from the operations of said machine. (i.e. determining how many of a

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particular examination have been performed and determining how much money a particular number of examinations produce) (col. 15, lines 60-col. 16, line 19)

[claims 35-36] Dorne and Wenstrup disclose the method of claim 33, as explained in the rejection of claim 33, but do not expressly disclose that there are providing multiple operators, computer comparisons and computers . However, at the time of the applicant's invention it would have been obvious to one of ordinary skill in the art to modify the method of Dorne and Wenstrup in combination to include a plurality of machines, each including a computer, and a plurality of operators and computer comparisons. (Multiplication or duplication of parts for multiple effects is an obvious modification over the prior art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8, 11; 549 F.2d 833 (7th Cir. 1977); *In re Harza*, 124 USPQ 378, 380; 274 F.2d 669 (CCPA 1960)) One would have been motivated to include this feature to increase the efficiency of the method, by allowing more than one operator to work at one time.

[claim 37] Dorne discloses a method, in which said computer provides information on procedures performed on each of said machines as well as summaries of the operations of all of said machines. (col. 8, lines 23-33)

[claim 38] Dorne further discloses the method as explained above, but Dorne does not expressly disclose providing comparisons by said computer which compare said standard protocol and said operations of said operator (e.g. actual operation).

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Wenstrup discloses a system that uses a template and includes means to determine the differences and similarities between images (e.g. x-ray images) and to provide output regarding these similarities/differences. (i.e. providing comparisons by said computer which compare said standard protocol and said operations of said operator (e.g. actual operation) (col. 8, line 53-col. 9, line 30) At the time of the Applicant's invention it would have been obvious to one of ordinary skill in the art to modify the system of Dorne with the teaching of Wenstrup to include a feature that compares/corrects for differences between the images. As suggested by Wenstrup, one would have been motivated to include these features to provide standardization of computed radiography and to improve technicians' confidence in the images received and read. (col. 2, lines 40-49)

[claim 39] Dorne discloses a method wherein prices useful for billing purposes are computed based on the operations of said operator. (col. 9, lines 13-36, lines 53-60— determines if images should be approved and processed for billing reports to be generated; i.e. determining how many of a particular examination have been performed and determining how much money a particular number of examinations produce- col. 15, lines 60-col. 16, line 19)

[claim 40] Dorne discloses an apparatus as defined in claim 28, in which said machine takes a picture of a part of a body. (col. 6, lines 9-17, Fig. 3C)

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[claim 41] Dorne discloses a method of claim 33, wherein said performance of a medical function comprises taking a picture of a part of a body. (col. 6, lines 9-17, Fig. 3C)

[claim 42] Dorne discloses an apparatus for monitoring the operations of an operator as defined in claim 28, wherein the "apparatus for receiving and entering into said memory" comprises a device that enters the operations of said operator into said memory before said medical function is completely performed.(col. 5, lines 5-65; col. 6, lines 9-27)

[claim 43] Dorne discloses an apparatus for monitoring the operations of an operator as defined in claim 42 in which each operation of the operator is entered into said memory before the next operation takes place. (col. 5, lines 5-65; col. 6, lines 6-27)

[claim 44] Dorne discloses a method defined in claim 33, in which said operations of the operator are entered into said memory before said machine gathers said medical information. (col. 5, lines 5-65)

[claim 45] Dorne disclose a method defined in claim 44, in which each entry into the computer for one operation of the operator is made before the next operation of the operator takes place. (col. 5, lines 5-65)

[claim 46] The method of monitoring the work of an operator of a medical machine comprising:

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- providing a medical machine which requires an operator to make plural operations in order for such machine to produce desired results, (col. 5, lines 5-65; col. 6, lines 6-27)
- providing a computer with a memory, (Figure 1, ref. no. 100.)
- entering into said memory data which represents operations of said operator in operating said machine with each such entry occurring prior to the next operation of said machine undertaken by said operator, and (col. 5, lines 5-65; col. 6, lines 6-27)

Dorne discloses the method as explained above, and further discloses providing said memory with a standard protocol for operating said machine to perform a medical function, (col. 6, lines 9-17, Fig. 3C). Dorne does not expressly disclose providing comparisons by said computer which compare said standard protocol and said operations of said operator.

Wenstrup discloses a system that uses a template and includes means to determine the differences and similarities between images (e.g. x-ray images) and to provide output regarding these similarities/differences. (i.e. providing comparisons by said computer which compare said standard protocol and said operations of said operator) (col. 8, line 53-col. 9, line 30) At the time of the Applicant's invention it would have been obvious to one of ordinary skill in the art to modify the system of Dorne with the teaching of Wenstrup to include a feature that compares/corrects for differences between the images. As suggested by Wenstrup, one would have been motivated to

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include these features to provide standardization of computed radiography and to improve technicians' confidence in the images received and read. (col. 2, lines 40-49)

Double Patenting

6. The Double Patenting rejection is hereby withdrawn due to the Terminal Disclaimer filed 1/4/07.

Response to Arguments

7. Applicant's arguments filed 11/29/06 have been fully considered but they are not persuasive.

(A) Applicant's arguments regarding the Double Patenting rejection are moot in view of the Terminal Disclaimer filed 1/4/07.

8. Applicant's additional arguments with respect to claim 28-46 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachel L. Porter whose telephone number is (571) 272-6775. The examiner can normally be reached on M-F, 9:30-6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RP
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